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SUPREME COURT OF ALABAMA

OCTOBER TERM, 2013-2014

1130479

Ex parte Shawn Ray Harper

PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF CRIMINAL APPEALS

(In re: Shawn Ray Harper

v.

State of Alabama)

(Cullman Circuit Court, CC-10-74.61;
Court of Criminal Appeals, CR-12-1794)

WISE, Justice.

The petition for the writ of certiorari is denied.

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In denying the petition for the writ of certiorari, this Court does not wish to be understood as approving all the language, reasons, or statements of law in the Court of Criminal Appeals' unpublished memorandum. Horsley v. Horsley, 291 Ala. 782, 280 So. 2d 155 (1973).

WRIT DENIED.

Stuart, Bolin, Parker, Murdock, Shaw, Main, and Bryan, JJ., concur.

Moore, C.J., dissents.

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MOORE, Chief Justice (dissenting).

Shawn Ray Harper pleaded guilty to first-degree unlawful manufacture of a controlled substance, a violation of § 13A-12-218, Ala. Code 1975. On April 28, 2013, he filed the underlying Rule 32, Ala. R. Crim. P., petition, alleging, among other things, that the trial court lacked jurisdiction to render a judgment or to impose a sentence because Harper's preliminary hearing was waived by a court-appointed attorney whom Harper had fired and replaced with another attorney before the hearing. I would grant the petition for the writ of certiorari to determine whether the attorney who allegedly no longer represented Harper improperly waived Harper's preliminary hearing. Therefore, I respectfully dissent.